

108TH CONGRESS  
1ST SESSION

# S. 1735

To increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 15, 2003

Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. GRAHAM of South Carolina, Mr. CHAMBLISS, and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
 5        “Gang Prevention and Effective Deterrence Act of 2003”.

6        (b) TABLE OF CONTENTS.—The table of contents of  
 7        this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CRIMINAL STREET GANG ABATEMENT ACT

Sec. 100. Short title.

Subtitle A—Criminal Law Reforms and Enhanced Penalties To Deter and  
 Punish Illegal Street Gang Activity

Sec. 101. Solicitation or recruitment of persons in criminal street gang activity.

Sec. 102. Criminal street gangs.

Sec. 103. Violent crimes in furtherance or in aid of criminal street gangs.

Sec. 104. Interstate and foreign travel or transportation in aid of criminal  
 street gangs.

Sec. 105. Amendments relating to violent crime in areas of exclusive Federal  
 jurisdiction.

Sec. 106. Increased penalties for use of interstate commerce facilities in the  
 commission of murder-for-hire and other felony crimes of vio-  
 lence.

Sec. 107. Increased penalties for violent crimes in aid of racketeering activity.

Sec. 108. Murder and other violent crimes committed during and in relation to  
 a drug trafficking crime.

Sec. 109. Sentencing guidelines for gang crimes, including an increase in of-  
 fense level for participation in crime as a gang member.

Subtitle B—Increased Federal Resources To Deter and Prevent At-Risk  
 Youth From Joining Illegal Street Gangs

Sec. 110. Designation of and assistance for “high intensity” interstate gang ac-  
 tivity areas.

Sec. 111. Enhancement of project safe neighborhoods initiative to improve en-  
 forcement of criminal laws against violent gangs.

Sec. 112. Additional resources needed by the Federal Bureau of Investigation  
 to investigate and prosecute violent criminal street gangs.

Sec. 113. Grants to State and local prosecutors to combat violent crime and to  
 protect witnesses and victims of crimes.

TITLE II—VIOLENT CRIME REFORMS NEEDED TO DETER AND  
 PREVENT ILLEGAL GANG CRIME

Sec. 201. Multiple interstate murder.

- Sec. 202. Expansion of rebuttable presumption against release of persons charged with firearms offenses.
- Sec. 203. Venue in capital cases.
- Sec. 204. Statute of limitations for violent crime.
- Sec. 205. Predicate crimes for authorization of interception of wire, oral, and electronic communications.
- Sec. 206. Clarification of definition of crime of violence.
- Sec. 207. Clarification to hearsay exception for forfeiture by wrongdoing.
- Sec. 208. Clarification of venue for retaliation against a witness.
- Sec. 209. Amendment of sentencing guidelines relating to certain gang and violent crimes.
- Sec. 210. Increased penalties for criminal use of firearms in crimes of violence and drug trafficking.
- Sec. 211. Conforming amendment.

#### TITLE III—JUVENILE CRIME REFORM FOR VIOLENT OFFENDERS

- Sec. 301. Treatment of Federal juvenile offenders.
- Sec. 302. Notification after arrest.
- Sec. 303. Release and detention prior to disposition.
- Sec. 304. Speedy trial.
- Sec. 305. Use of juvenile records.
- Sec. 306. Federal sentencing guidelines.

## 1       **TITLE I—CRIMINAL STREET** 2       **GANG ABATEMENT ACT**

### 3   **SEC. 100. SHORT TITLE.**

4       This title may be cited as the “Criminal Street Gang  
5 Abatement Act”.

## 6   **Subtitle A—Criminal Law Reforms** 7       **and Enhanced Penalties To** 8       **Deter and Punish Illegal Street** 9       **Gang Activity**

### 10 **SEC. 101. SOLICITATION OR RECRUITMENT OF PERSONS IN** 11       **CRIMINAL STREET GANG ACTIVITY.**

12       Chapter 26 of title 18, United States Code, is amend-  
13 ed by adding at the end the following:

1 **“§ 522. Recruitment of persons to participate in a**  
 2 **criminal street gang**

3 “(a) PROHIBITED ACTS.—It shall be unlawful for any  
 4 person to use any facility in, or travel in, interstate or  
 5 foreign commerce, or cause another to do so, in order to  
 6 recruit, employ, solicit, induce, command, or cause another  
 7 person to be or remain as a member of a criminal street  
 8 gang, or conspire to do so, with the intent that the person  
 9 being recruited, solicited, induced, commanded, or caused  
 10 to be or remain a member of such gang participate in an  
 11 offense described in section 521(b).

12 “(b) PENALTIES.—Any person who violates sub-  
 13 section (a) shall—

14 “(1) be imprisoned not more than 10 years,  
 15 fined under this title, or both; and

16 “(2) if the person recruited, solicited, induced,  
 17 commanded, or caused to participate in a criminal  
 18 street gang is a minor—

19 “(A) be imprisoned for not less than 3  
 20 years and not more than 10 years, fined under  
 21 this title, or both; and

22 “(B) at the discretion of the sentencing  
 23 judge, be liable for any costs incurred by the  
 24 Federal Government, or by any State or local  
 25 government, for housing, maintaining, and

1           treating the person until the person attains the  
2           age of 18 years.”.

3 **SEC. 102. CRIMINAL STREET GANGS.**

4           (a) CRIMINAL STREET GANG PROSECUTIONS.—Sec-  
5 tion 521 of title 18, United States Code, is amended to  
6 read as follows:

7 **“§ 521. Criminal street gang prosecutions**

8           “(a) DEFINITIONS.—As used in this chapter:

9           “(1) CRIMINAL STREET GANG.—The term  
10          ‘criminal street gang’ means a formal or informal  
11          group, club, organization, or association of 3 or  
12          more individuals, who act in concert, or agree to act  
13          in concert, with a purpose that any of these persons  
14          alone, or in any combination, commit or will commit,  
15          2 or more predicate gang crimes, 1 of which occurs  
16          after the date of enactment of The Gang Prevention  
17          and Effective Deterrence Act of 2003 and the last  
18          of which occurs not later than 10 years (excluding  
19          any period of imprisonment) after the commission of  
20          a prior predicate gang crime, provided that the ac-  
21          tivities of the criminal street gang affect interstate  
22          or foreign commerce.

23           “(2) PREDICATE GANG CRIME.—The term  
24          ‘predicate gang crime’ means—

1           “(A) any act or threat, or attempted act or  
2           threat, which is chargeable under Federal or  
3           State law and punishable by imprisonment for  
4           more than 1 year, involving murder, attempted  
5           murder, manslaughter, gambling, kidnapping,  
6           robbery, extortion, arson, obstruction of justice,  
7           tampering with or retaliating against a witness,  
8           victim, or informant, burglary, sexual assault,  
9           carjacking, or manufacturing, importing, dis-  
10          tributing, possessing with intent to distribute,  
11          or otherwise dealing in a controlled substance  
12          or listed chemicals (as those terms are defined  
13          in section 102 of the Controlled Substances Act  
14          (21 U.S.C. 802));

15          “(B) any act punishable by imprisonment  
16          for more than 1 year under section 844 (relat-  
17          ing to explosive materials), section 922(g)(1)  
18          (where the underlying conviction is a serious  
19          violent felony (as defined in section  
20          3559(c)(2)(F) of this title) or is a serious drug  
21          offense (as defined in section 942(e)(2)(A) of  
22          this title), or subsection (a)(2), (b), (c), (g), or  
23          (h) of section 924 (relating to receipt, posses-  
24          sion, and transfer of firearms), sections 1028  
25          and 1029 (relating to fraud and related activity

1 in connection with identification documents or  
2 access devices), section 1503 (relating to ob-  
3 struction of justice), section 1510 (relating to  
4 obstruction of criminal investigations), section  
5 1512 (relating to tampering with a witness, vic-  
6 tim, or informant), or section 1513 (relating to  
7 retaliating against a witness, victim, or inform-  
8 ant), section 1951 (relating to interference with  
9 commerce, robbery or extortion), section 1952  
10 (relating to racketeering), section 1956 (relat-  
11 ing to the laundering of monetary instruments),  
12 section 1957 (relating to engaging in monetary  
13 transactions in property derived from specified  
14 unlawful activity), section 1958 (relating to use  
15 of interstate commerce facilities in the commis-  
16 sion of murder-for-hire), sections 2312 through  
17 2315 (relating to interstate transportation of  
18 stolen motor vehicles or stolen property); or

19 “(C) any act involving the Immigration  
20 and Nationality Act, section 274 (relating to  
21 brining in and harboring certain aliens), section  
22 277 (relating to aiding or assisting certain  
23 aliens to enter the United States), or section  
24 278 (relating to importation of alien for im-  
25 moral purpose).

1           “(3) STATE.—The term ‘State’ means each of  
 2           the several States of the United States, the District  
 3           of Columbia, and any commonwealth, territory, or  
 4           possession of the United States.

5           “(b) ILLEGAL PARTICIPATION IN CRIMINAL STREET  
 6 GANGS.—It shall be unlawful—

7           “(1) to participate in a criminal street gang by  
 8           committing, or conspiring or attempting to commit,  
 9           2 or more predicate gang crimes—

10           “(A) in furtherance or in aid of the activi-  
 11           ties of a criminal street gang; or

12           “(B) for the purpose of gaining entrance  
 13           to or maintaining or increasing position in such  
 14           a gang; or

15           “(2) to employ, use, command, counsel, per-  
 16           suade, induce, entice, or coerce any individual to  
 17           commit, cause to commit, or facilitate the commis-  
 18           sion of, a predicate gang crime—

19           “(A) in furtherance or in aid of the activi-  
 20           ties of a criminal street gang; or

21           “(B) for the purpose of gaining entrance  
 22           to or maintaining or increasing position in such  
 23           a gang.

24           “(c) PENALTIES.—



1           “(1) IMPRISONMENT OF UP TO 30 YEARS OR  
2           LIFE.—Any person who violates paragraph (1) of  
3           subsection (b)—

4                   “(A) shall be imprisoned not more than 30  
5           years;

6                   “(B) if the violation is based on a predi-  
7           cate gang crime for which the maximum pen-  
8           alty includes life imprisonment, shall be impris-  
9           oned for any term of years or for life; and

10                   “(C) if the person commits such a violation  
11           after 1 or more prior convictions for such a  
12           predicate gang crime, that is not part of the in-  
13           stant violation, shall be imprisoned for any term  
14           of years not less than 15 years or for life.

15           “(2) IMPRISONMENT OF UP TO 20 YEARS.—

16                   “(A) IN GENERAL.—A person who violates  
17           subsection (b)(2) shall be imprisoned for not  
18           more than 20 years, fined under this title, or  
19           both.

20                   “(B) SUBJECT IS A MINOR.—If the person  
21           who was the subject of the violation under sub-  
22           section (b)(2) was less than 18 years of age at  
23           the time of the violation, the person committing  
24           the violation shall be imprisoned for not less  
25           than 10 years.

1           “(C) CONSECUTIVE TERMS.—A term of  
 2           imprisonment under this paragraph shall run  
 3           consecutively to any other term of imprison-  
 4           ment, including that imposed for any other vio-  
 5           lation of this chapter.

6           “(3) ADDITIONAL PENALTIES.—In addition to  
 7           any other penalty authorized by this section—

8           “(A) a person who violates paragraph (1)  
 9           or (2) of subsection (b), 1 of whose predicate  
 10          gang crimes involves murder or conspiracy to  
 11          commit murder which results in the taking of  
 12          a life, shall be punished by death or by impris-  
 13          onment for any term of years or for life;

14          “(B) a person who violates paragraph (1)  
 15          or (2) of subsection (b), 1 of whose predicate  
 16          gang crimes involves attempted murder or con-  
 17          spiracy to commit murder, shall be imprisoned  
 18          for not more than 30 years; and

19          “(C) a person who violates paragraph (1)  
 20          or (2) of subsection (b), and who at the time  
 21          of the offense occupied a position of organizer,  
 22          leader, supervisor, manager, or other position of  
 23          management in the criminal street gang in-  
 24          volved in such violation, shall be imprisoned for

1           any term of years not less than 15 years or for  
2           life.

3           “(d) FORFEITURE.—

4                 “(1) IN GENERAL.—A person who violates any  
5           provision of this section shall, in addition to any  
6           other penalty and irrespective of any provision of  
7           State law, forfeit to the United States—

8                 “(A) any property constituting, or derived  
9           from, any proceeds the person obtained, directly  
10          or indirectly, as a result of the violation; and

11                “(B) any property used, or intended to be  
12          used, in any manner or part, to commit, or to  
13          facilitate the commission of, the violation.

14               “(2) APPLICATION OF CONTROLLED SUB-  
15          STANCES ACT.—Subsections (b), (c), (e), (f), (g),  
16          (h), (i), (j), (k), (l), (m), (n), (o), and (p) of section  
17          413 of the Controlled Substances Act (21 U.S.C.  
18          853) shall apply to a forfeiture under this section.”.

19          (b) CLERICAL AMENDMENT.—The table of sections  
20          at the beginning of chapter 26 of title 18, United States  
21          Code, is amended to read as follows:

          “521. Criminal street gang prosecutions.”.

22       **SEC. 103. VIOLENT CRIMES IN FURTHERANCE OR IN AID OF**  
23       **CRIMINAL STREET GANGS.**

24          (a) VIOLENT CRIMES AND CRIMINAL STREET GANG  
25          RECRUITMENT.—Chapter 26 of title 18, United States

1 Code, as amended by section 101, is amended by adding  
 2 at the end the following:

3 **“§ 523. Violent crimes in furtherance or in aid of a**  
 4 **criminal street gang**

5 “(a) Any person who, in furtherance or in aid of a  
 6 criminal street gang, murders, kidnaps, sexually assaults,  
 7 maims, assaults with a dangerous weapon, commits as-  
 8 sault resulting in serious bodily injury upon, or threatens  
 9 to commit a crime of violence against any individual, or  
 10 attempts or conspires to do so, shall be punished, in addi-  
 11 tion and consecutive to the punishment provided for any  
 12 other violation of this chapter—

13 “(1) for murder, by death or imprisonment for  
 14 any term of years or for life, a fine under this title,  
 15 or both;

16 “(2) for kidnapping or sexual assault, by im-  
 17 prisonment for any term of years or for life, a fine  
 18 under this title, or both;

19 “(3) for maiming, by imprisonment for any  
 20 term of years or for life, a fine under this title, or  
 21 both;

22 “(4) for assault with a dangerous weapon or as-  
 23 sault resulting in serious bodily injury, by imprison-  
 24 ment for not more than 30 years, a fine under this  
 25 title, or both;

1           “(5) for threatening to commit a crime of vio-  
 2           lence specified in paragraphs (1) through (4), by im-  
 3           prisonment for not more than 10 years, a fine under  
 4           this title, or both;

5           “(6) for attempting or conspiring to commit  
 6           murder, kidnapping, maiming, or sexual assault, by  
 7           imprisonment for not more than 30 years, a fine  
 8           under this title, or both; and

9           “(7) for attempting or conspiring to commit a  
 10          crime involving assault with a dangerous weapon or  
 11          assault resulting in serious bodily injury, by impris-  
 12          onment for not more than 20 years, a fine under  
 13          this title, or both.

14          “(b) DEFINITIONS.—In this section:

15           “(1) CRIMINAL STREET GANG.—The term  
 16           ‘criminal street gang’ has the same meaning as in  
 17           section 521 of this title.

18           “(2) MINOR.—The term ‘minor’ means a per-  
 19           son who is less than 18 years of age.”.

20          (b) CLERICAL AMENDMENT.—The table of sections  
 21          at the beginning of chapter 26 of title 18, United States  
 22          Code, is amended by adding at the end the following:

“522. Recruitment of persons to participate in a criminal street gang.

“523. Violent crimes in furtherance of a criminal street gang.”.

1 **SEC. 104. INTERSTATE AND FOREIGN TRAVEL OR TRANS-**  
2 **PORTATION IN AID OF CRIMINAL STREET**  
3 **GANGS.**

4 Section 1952 of title 18, United States Code, is  
5 amended—

6 (1) in subsection (a)—

7 (A) by striking “and thereafter performs  
8 or attempts to perform” and inserting “and  
9 thereafter performs, or attempts or conspires to  
10 perform”;

11 (B) by striking “5 years” and inserting  
12 “10 years”; and

13 (C) by inserting “punished by death or”  
14 after “if death results shall be”;

15 (2) by redesignating subsections (b) and (c) as  
16 subsections (c) and (d), respectively;

17 (3) by inserting after subsection (a) the fol-  
18 lowing:

19 “(b) Whoever travels in interstate or foreign com-  
20 merce or uses the mail or any facility in interstate or for-  
21 eign commerce, with the intent to bribe, force, intimidate,  
22 or threaten any person, to delay or influence the testimony  
23 of, or prevent from testifying, a witness in a State criminal  
24 proceeding, or by any such means to cause any person to  
25 destroy, alter, or conceal a record, document, or other ob-  
26 ject, with intent to impair the object’s integrity or avail-

1 ability for use in such a proceeding, and thereafter per-  
 2 forms, or attempts or conspires to perform, an act de-  
 3 scribed in this subsection, shall—

4 “(1) be fined under this title, imprisoned for  
 5 any term of years, or both; and

6 “(2) if death results, be punished by death or  
 7 imprisonment for any term of years or for life.”; and

8 (4) in subsection (c)(2), as redesignated under  
 9 subparagraph (B), by inserting “intimidation of, or  
 10 retaliation against, a witness, victim, juror, or in-  
 11 formant,” after “extortion, bribery,”.

12 **SEC. 105. AMENDMENTS RELATING TO VIOLENT CRIME IN**  
 13 **AREAS OF EXCLUSIVE FEDERAL JURISDIC-**  
 14 **TION.**

15 (a) ASSAULT WITHIN MARITIME AND TERRITORIAL  
 16 JURISDICTION OF UNITED STATES.—Section 113(a)(3) of  
 17 title 18, United States Code, is amended by striking “with  
 18 intent to do bodily harm, and without just cause or ex-  
 19 cuse”.

20 (b) CONSPIRACY.—Section 371 of title 18, United  
 21 States Code, is amended—

22 (1) by striking “If two” and inserting “(a) If  
 23 2”;

24 (2) by striking “each shall be fined under this  
 25 title or imprisoned not more than five years, or

1       both.” and inserting the following: “each person  
2       shall—

3               “(1) be fined or imprisoned, or both, as set  
4       forth in the specific substantive offense which was  
5       the object of the conspiracy; or

6               “(2) if paragraph (1) does not apply, be fined  
7       under this title or imprisoned for not more than 10  
8       years, or both.”; and

9               (3) by striking “If, however,” and inserting  
10       “(b) If”.

11       (c) MANSLAUGHTER.—Section 1112(b) of title 18,  
12       United States Code, is amended by—

13               (1) striking “ten years” and inserting “20  
14       years”; and

15               (2) striking “six years” and inserting “10  
16       years”.

17       (d) OFFENSES COMMITTED WITHIN INDIAN COUN-  
18       TRY.—Section 1153(a) of title 18, United States Code, is  
19       amended by inserting “an offense for which the maximum  
20       statutory term of imprisonment under section 1363 is  
21       greater than 5 years,” after “a felony under chapter  
22       109A,”.

23       (e) RACKETEER INFLUENCED AND CORRUPT ORGA-  
24       NIZATIONS.—Section 1961(1) of title 18, United States  
25       Code, is amended—



1           (1) in subparagraph (A), by inserting “, or  
 2           would have been so chargeable if the act or threat  
 3           (other than gambling) had not been committed in  
 4           Indian country (as defined in section 1151) or in  
 5           any other area of exclusive Federal jurisdiction,”  
 6           after “chargeable under State law”; and

7           (2) in subparagraph (B), by inserting “section  
 8           1123 (relating to interstate murder),” after “section  
 9           1084 (relating to the transmission of wagering infor-  
 10          mation),”.

11          (f) CARJACKING.—Section 2119 of title 18, United  
 12 States Code, is amended by striking “, with the intent to  
 13 cause death or serious bodily harm”.

14          (g) CLARIFICATION OF ILLEGAL GUN TRANSFERS TO  
 15 COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIO-  
 16 LENCE.—Section 924(h) of title 18, United States Code,  
 17 is amended to read as follows:

18          “(h) ILLEGAL TRANSFERS.—Whoever knowingly  
 19 transfers a firearm, knowing that the firearm will be used  
 20 to commit, or possessed in furtherance of, a crime of vio-  
 21 lence or drug trafficking crime, shall be imprisoned for  
 22 not more than 10 years, fined under this title, or both.”.

23          (h) AMENDMENT OF SPECIAL SENTENCING PROVI-  
 24 SION.—Section 3582(d) of title 18, United States Code,  
 25 is amended—

1           (1) by striking “chapter 95 (racketeering) or 96  
 2           (racketeer influenced and corrupt organizations) of  
 3           this title” and inserting “section 521 (criminal  
 4           street gangs) or 522 (violent crimes in furtherance  
 5           or in aid of criminal street gangs), in chapter 95  
 6           (racketeering) or 96 (racketeer influenced and cor-  
 7           rupt organizations),”; and

8           (2) by inserting “a criminal street gang or” be-  
 9           fore “an illegal enterprise”.

10          (i) CONFORMING AMENDMENT RELATING TO OR-  
 11          DERS FOR RESTITUTION.—Section 3663(c)(4) of title 18,  
 12          United States Code, is amended by striking “chapter 46  
 13          or chapter 96 of this title” and inserting “section 521,  
 14          under chapter 46 or 96,”.

15          (j) SPECIAL PROVISION FOR INDIAN COUNTRY.—No  
 16          person subject to the criminal jurisdiction of an Indian  
 17          tribal government shall be subject to section 3559(e) of  
 18          title 18, United States Code, for any offense for which  
 19          Federal jurisdiction is solely predicated on Indian country  
 20          (as defined in section 1151 of such title 18) and which  
 21          occurs within the boundaries of such Indian country un-  
 22          less the governing body of such Indian tribe elects to sub-  
 23          ject the persons under the criminal jurisdiction of the tribe  
 24          to section 3559(e) of such title 18.

1 **SEC. 106. INCREASED PENALTIES FOR USE OF INTERSTATE**  
2 **COMMERCE FACILITIES IN THE COMMISSION**  
3 **OF MURDER-FOR-HIRE AND OTHER FELONY**  
4 **CRIMES OF VIOLENCE.**

5 Section 1958 of title 18, United States Code, is  
6 amended—

7 (1) by striking the header and inserting the fol-  
8 lowing:

9 **“§ 1958. Use of interstate commerce facilities in the**  
10 **commission of murder-for-hire and other**  
11 **felony crimes of violence”;**

12 and

13 (2) by amending subsection (a) to read as fol-  
14 lows:

15 “(a) Any person who travels in or causes another (in-  
16 cluding the intended victim) to travel in interstate or for-  
17 eign commerce, or uses or causes another (including the  
18 intended victim) to use the mail or any facility in inter-  
19 state or foreign commerce, with intent that a murder or  
20 other felony crime of violence be committed in violation  
21 of the laws of any State or the United States as consider-  
22 ation for the receipt of, or as consideration for a promise  
23 or agreement to pay, anything of pecuniary value, or who  
24 conspires to do so—

25 “(1) may be fined under this title and shall be  
26 imprisoned not more than 20 years;

1           “(2) if personal injury results, may be fined  
2           under this title and shall be imprisoned for not more  
3           than 30 years; and

4           “(3) if death results, may be fined not more  
5           than \$250,000, and shall be punished by death or  
6           imprisoned for any term of years or for life, or  
7           both.”.

8   **SEC. 107. INCREASED PENALTIES FOR VIOLENT CRIMES IN**  
9                           **AID OF RACKETEERING ACTIVITY.**

10          Section 1959(a) of title 18, United States Code, is  
11          amended to read as follows:

12          “(a) Any person who, in furtherance or in aid of an  
13          enterprise engaged in racketeering activity, murders, kid-  
14          naps, sexually assaults, maims, assaults with a dangerous  
15          weapon, commits assault resulting in serious bodily injury  
16          upon, or threatens to commit a crime of violence against  
17          any individual in violation of the laws of any State or the  
18          United States, or attempts or conspires to do so, shall be  
19          punished, in addition and consecutive to the punishment  
20          provided for any other violation of this chapter—

21                 “(1) for murder, by death or imprisonment for  
22                 any term of years or for life, a fine under this title,  
23                 or both;

1           “(2) for kidnapping or sexual assault, by im-  
2           prisonment for any term of years or for life, a fine  
3           under this title, or both;

4           “(3) for maiming, by imprisonment for any  
5           term of years or for life, a fine under this title, or  
6           both;

7           “(4) for assault with a dangerous weapon or as-  
8           sault resulting in serious bodily injury, by imprison-  
9           ment for not more than 30 years, a fine under this  
10          title, or both;

11          “(5) for threatening to commit a crime of vio-  
12          lence, by imprisonment for not more than 10 years,  
13          a fine under this title, or both;

14          “(6) for attempting or conspiring to commit  
15          murder, kidnapping, maiming, or sexual assault, by  
16          imprisonment for not more than 30 years, a fine  
17          under this title, or both; and

18          “(7) for attempting or conspiring to commit as-  
19          sault with a dangerous weapon or assault which  
20          would result in serious bodily injury, by imprison-  
21          ment for not more than 20 years, a fine under this  
22          title, or both.”.

1 **SEC. 108. MURDER AND OTHER VIOLENT CRIMES COM-**  
2 **MITTED DURING AND IN RELATION TO A**  
3 **DRUG TRAFFICKING CRIME.**

4 (a) IN GENERAL.—Part D of the Controlled Sub-  
5 stances Act (21 U.S.C. 841 et seq.) is amended by adding  
6 at the end the following:

7 “MURDER AND OTHER VIOLENT CRIMES COMMITTED  
8 DURING AND IN RELATION TO A DRUG TRAFFICKING  
9 CRIME

10 “SEC. 424. (a) IN GENERAL.—Any person who, dur-  
11 ing and in relation to any drug trafficking crime, murders,  
12 kidnaps, sexually assaults, maims, assaults with a dan-  
13 gerous weapon, commits assault resulting in serious bodily  
14 injury upon, or threatens to commit a crime of violence  
15 against, any individual, or attempts or conspires to do so,  
16 shall be punished, in addition and consecutive to the pun-  
17 ishment provided for the drug trafficking crime—

18 “(1) in the case of murder, by death or impris-  
19 onment for any term of years or for life, a fine  
20 under title 18, United States Code, or both;

21 “(2) in the case of kidnapping or sexual assault  
22 by imprisonment for any term of years or for life,  
23 a fine under such title 18, or both;

24 “(3) in the case of maiming, by imprisonment  
25 for any term of years or for life, a fine under such  
26 title 18, or both;

1           “(4) in the case of assault with a dangerous  
2       weapon or assault resulting in serious bodily injury,  
3       by imprisonment not more than 30 years, a fine  
4       under such title 18, or both;

5           “(5) in the case of threatening to commit a  
6       crime of violence specified in paragraphs (1) through  
7       (4), by imprisonment for not more than 10 years, a  
8       fine under such title 18, or both;

9           “(6) in the case of attempting or conspiring to  
10      commit murder, kidnapping, maiming, or sexual as-  
11      sault, by imprisonment for not more than 30 years,  
12      a fine under such title 18, or both; and

13          “(7) in the case of attempting or conspiring to  
14      commit a crime involving assault with a dangerous  
15      weapon or assault resulting in serious bodily injury,  
16      by imprisonment for not more than 20 years, a fine  
17      under such title 18, or both.

18          “(b) VENUE.—A prosecution for a violation of this  
19      section may be brought in—

20           “(1) the judicial district in which the murder or  
21      other crime of violence occurred; or

22           “(2) any judicial district in which the drug traf-  
23      ficking crime may be prosecuted.

24          “(c) APPLICABLE DEATH PENALTY PROCEDURES.—  
25      A defendant who has been found guilty of an offense under

1 this section for which a sentence of death is provided shall  
 2 be subject to the provisions of chapter 228 of title 18,  
 3 United States Code.

4 “(d) DEFINITIONS.—As used in this section—

5 “(1) the term ‘crime of violence’ has the mean-  
 6 ing given that term in section 924(c)(3) of title 18,  
 7 United States Code; and

8 “(2) the term ‘drug trafficking crime’ has the  
 9 meaning given that term in section 924(c)(2) of title  
 10 18, United States Code.”.

11 (b) CLERICAL AMENDMENT.—The table of contents  
 12 for the Controlled Substances Act is amended by inserting  
 13 after the item relating to section 423, the following:

“Sec. 424. Murder and other violent crimes committed during and in relation  
 to a drug trafficking crime.”.

14 **SEC. 109. SENTENCING GUIDELINES FOR GANG CRIMES, IN-**  
 15 **CLUDING AN INCREASE IN OFFENSE LEVEL**  
 16 **FOR PARTICIPATION IN CRIME AS A GANG**  
 17 **MEMBER.**

18 Pursuant to its authority under section 994(p) of title  
 19 28, United States Code, the United States Sentencing  
 20 Commission shall amend the Federal sentencing guidelines  
 21 to eliminate the policy statement in section 5K2.18 of the  
 22 guidelines regarding section 521 of title 18, United States  
 23 Code, and instead provide a base offense level in chapter  
 24 2 of the guidelines for offenses described in sections 521,



1 522, and 523 of title 18, United States Code, that reflects  
 2 the seriousness of these offenses. Such guidelines shall in-  
 3 clude an appropriate enhancement (which shall be in addi-  
 4 tion to any other adjustment under chapter 3 of the Fed-  
 5 eral Sentencing guidelines) for any offense described in  
 6 section 521, 522, or 523 if the offense was committed in  
 7 furtherance or in aid of the activities of a criminal street  
 8 gang.

9 **Subtitle B—Increased Federal Re-**  
 10 **sources To Deter and Prevent**  
 11 **at-Risk Youth From Joining Ille-**  
 12 **gal Street Gangs**

13 **SEC. 110. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-**  
 14 **TENSITY” INTERSTATE GANG ACTIVITY**  
 15 **AREAS.**

16 (a) DEFINITIONS.—In this section the following defi-  
 17 nitions shall apply:

18 (1) GOVERNOR.—The term “Governor” means  
 19 a Governor of a State or the Mayor of the District  
 20 of Columbia.

21 (2) HIGH INTENSITY INTERSTATE GANG ACTIV-  
 22 ITY AREA.—The term “high intensity interstate  
 23 gang activity area” means an area within a State  
 24 that is designated as a high intensity interstate gang  
 25 activity area under subsection (b)(1).

1           (3) STATE.—The term “State” means a State  
2           of the United States, the District of Columbia, and  
3           any commonwealth, territory, or possession of the  
4           United States.

5           (b) HIGH INTENSITY INTERSTATE GANG ACTIVITY  
6 AREAS.—

7           (1) DESIGNATION.—The Attorney General,  
8           after consultation with the Governors of appropriate  
9           States, may designate as high intensity interstate  
10          gang activity areas, specific areas that are located  
11          within 1 or more States.

12          (2) ASSISTANCE.—In order to provide Federal  
13          assistance to high intensity interstate gang activity  
14          areas, the Attorney General shall—

15                (A) establish criminal street gang enforce-  
16                ment teams, consisting of Federal, State, and  
17                local law enforcement authorities, for the co-  
18                ordinated investigation, disruption, apprehen-  
19                sion, and prosecution of criminal street gangs  
20                and offenders in each high intensity interstate  
21                gang activity area;

22                (B) direct the reassignment or detailing  
23                from any Federal department or agency (sub-  
24                ject to the approval of the head of that depart-  
25                ment or agency, in the case of a department or

agency other than the Department of Justice)  
 of personnel to each criminal street gang en-  
 forcement team; and

(C) provide all necessary funding for the  
 operation of the criminal street gang enforce-  
 ment team in each high intensity interstate  
 gang activity area.

(3) COMPOSITION OF CRIMINAL STREET GANG  
 ENFORCEMENT TEAM.—The team established pursu-  
 ant to paragraph (2)(A) shall consist of agents and  
 officers, where feasible, from—

(A) the Federal Bureau of Investigation;

(B) the Drug Enforcement Administration;

(C) the Bureau of Alcohol, Tobacco, Fire-  
 arms, and Explosives;

(D) the United States Marshal's Service;

(E) the Directorate of Border and Trans-  
 portation Security of the Department of Home-  
 land Security;

(F) the Department of Housing and Urban  
 Development;

(G) State and local law enforcement; and

(H) State and local prosecutors.

(4) CRITERIA FOR DESIGNATION.—In consid-  
 ering an area for designation as a high intensity

1 interstate gang activity area under this section, the  
2 Attorney General shall consider—

3 (A) the current and predicted levels of  
4 gang crime activity in the area;

5 (B) the extent to which violent crime in  
6 the area appears to be related to criminal street  
7 gang activity, such as drug trafficking, murder,  
8 robbery, assaults, carjacking, arson, kidnap-  
9 ping, extortion, and other criminal activity;

10 (C) the extent to which State and local law  
11 enforcement agencies have committed resources  
12 to—

13 (i) respond to the gang crime prob-  
14 lem; and

15 (ii) participate in a gang enforcement  
16 team;

17 (D) the extent to which a significant in-  
18 crease in the allocation of Federal resources  
19 would enhance local response to the gang crime  
20 activities in the area; and

21 (E) any other criteria that the Attorney  
22 General considers to be appropriate.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be  
 2 appropriated \$100,000,000 for each of the fiscal  
 3 years 2004 to 2008 to carry out this section.

4 (2) USE OF FUNDS.—Of amounts made avail-  
 5 able under paragraph (1) in each fiscal year—

6 (A) 60 percent shall be used to carry out  
 7 subsection (b)(2); and

8 (B) 40 percent shall be used to make  
 9 grants available for community-based programs  
 10 to provide crime prevention, research, and  
 11 intervention services that are designed for gang  
 12 members and at-risk youth in areas designated  
 13 pursuant to this section as high intensity inter-  
 14 state gang activity areas.

15 **SEC. 111. ENHANCEMENT OF PROJECT SAFE NEIGHBOR-**  
 16 **HOODS INITIATIVE TO IMPROVE ENFORCE-**  
 17 **MENT OF CRIMINAL LAWS AGAINST VIOLENT**  
 18 **GANGS.**

19 (a) IN GENERAL.—The Attorney General shall ex-  
 20 pand the Project Safe Neighborhoods program to require  
 21 each United States attorney to—

22 (1) identify, investigate, and prosecute signifi-  
 23 cant criminal street gangs operating within their dis-  
 24 trict;

(2) coordinate the identification, investigation, and prosecution of criminal street gangs among Federal, State, and local law enforcement agencies; and

(3) coordinate and establish criminal street gang enforcement teams, established under section 101(b), in high intensity interstate gang activity areas within a United States attorney's district.

8 (b) ADDITIONAL ASSISTANT UNITED STATES ATTOR-  
9 NEYS FOR PROJECT SAFE NEIGHBORHOODS.—

(1) IN GENERAL.—The Attorney General may hire 94 additional Assistant United States attorneys to carry out the provisions of this section.

13                   (2) AUTHORIZATION OF APPROPRIATIONS.—  
14           There are authorized to be appropriated \$7,500,000  
15           for each of the fiscal years 2004 through 2008 to  
16           carry out this section.

17 SEC. 112. ADDITIONAL RESOURCES NEEDED BY THE FED-  
18 ERAL BUREAU OF INVESTIGATION TO INVES-  
19 TIGATE AND PROSECUTE VIOLENT CRIMINAL  
20 STREET GANGS.

21 (a) RESPONSIBILITIES OF ATTORNEY GENERAL.—  
22 The Attorney General shall require the Federal Bureau  
23 of Investigation to—

(1) increase funding for the Safe Streets Pro-  
gram; and

1           (2) support the criminal street gang enforce-  
 2           ment teams, established under section 110(b), in  
 3           designated high intensity interstate gang activity  
 4           areas.

5           (b) AUTHORIZATION OF APPROPRIATIONS.—

6           (1) IN GENERAL.—In addition to amounts oth-  
 7           erwise authorized, there are authorized to be appro-  
 8           priated to the Federal Bureau of Investigation  
 9           \$5,000,000 for each of the fiscal years 2004 through  
 10          2008 to carry out the Safe Streets Program.

11          (2) AVAILABILITY.—Any amounts appropriated  
 12          pursuant to paragraph (1) shall remain available  
 13          until expended.

14   **SEC. 113. GRANTS TO STATE AND LOCAL PROSECUTORS TO**  
 15                           **COMBAT VIOLENT CRIME AND TO PROTECT**  
 16                           **WITNESSES AND VICTIMS OF CRIMES.**

17          (a) IN GENERAL.—Section 31702 of the Violent  
 18          Crime Control and Law Enforcement Act of 1994 (42  
 19          U.S.C. 13862) is amended—

20               (1) in paragraph (3), by striking “and” at the  
 21               end;

22               (2) in paragraph (4), by striking the period at  
 23               the end and inserting a semicolon; and

24               (3) by adding at the end the following:

25               “(5) to hire additional prosecutors to—

1                   “(A) allow more cases to be prosecuted;  
2                   and

3                   “(B) reduce backlogs;

4                   “(6) to fund programs that enable prosecutors  
5                   to more effectively address drug, gang and youth vi-  
6                   olence, and other violent crime problems;

7                   “(7) to fund technology, equipment, and train-  
8                   ing for prosecutors to increase the accurate identi-  
9                   fication and successful prosecution of young violent  
10                  offenders;

11                  “(8) to assist prosecutors in community pros-  
12                  ecution, problem solving, and conflict resolution  
13                  techniques through collaborative efforts with police,  
14                  school officials, probation officers, social service  
15                  agencies, and community organizers; and

16                  “(9) to create and expand witness and victim  
17                  protection programs to prevent threats, intimidation,  
18                  and retaliation against victims of, and witnesses to,  
19                  violent crimes.”.

20                  (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
21                  31707 of the Violent Crime Control and Law Enforcement  
22                  Act of 1994 (42 U.S.C. 13867) is amended to read as  
23                  follows:



1 **“SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated  
3 \$20,000,000 for each of the fiscal years 2004 through  
4 2008 to carry out this subtitle.”.

5 **TITLE II—VIOLENT CRIME RE-**  
6 **FORMS NEEDED TO DETER**  
7 **AND PREVENT ILLEGAL GANG**  
8 **CRIME**

9 **SEC. 201. MULTIPLE INTERSTATE MURDER.**

10 Part I of chapter 51 of title 18, United States Code,  
11 is amended by adding at the end the following new section:

12 **“SEC. 1123. USE OF INTERSTATE COMMERCE FACILITIES IN**  
13 **THE COMMISSION OF MULTIPLE MURDER.**

14 “(a) IN GENERAL.—Any person who travels in or  
15 causes another (including the intended victim) to travel  
16 in interstate or foreign commerce, or uses or causes an-  
17 other (including the intended victim) to use the mail or  
18 any facility in interstate or foreign commerce, with intent  
19 that 2 or more murders be committed in violation of the  
20 laws of any State or the United States, or who conspires  
21 to do so—

22 “(1) shall be fined under this title, imprisoned  
23 for not more than 30 years, or both;

24 “(2) if personal injury results, shall be fined  
25 under this title, imprisoned for not more than 30  
26 years, or both; and

1           “(3) if death results, may be fined not more  
2           than \$250,000 under this title, and shall be pun-  
3           ished by death or imprisoned for any term of years  
4           or for life.

5           “(b) DEFINITIONS.—As used in this section:

6           “(1) FACILITY IN INTERSTATE COMMERCE.—  
7           The term ‘facility in interstate commerce’ includes  
8           means of transportation and communication.

9           “(2) STATE.—The term ‘State’ means each of  
10          the several States of the United States, the District  
11          of Columbia, and any commonwealth, territory, or  
12          possession of the United States.”.

13 **SEC. 202. EXPANSION OF REBUTTABLE PRESUMPTION**  
14 **AGAINST RELEASE OF PERSONS CHARGED**  
15 **WITH FIREARMS OFFENSES.**

16          Section 3142 of title 18, United States Code, is  
17          amended—

18                 (1) in subsection (e), in the matter following  
19          paragraph (3)—

20                         (A) by inserting “an offense under section  
21                         922(g)(1) where the underlying conviction is a  
22                         serious drug offense as defined in section  
23                         924(e)(2)(A) of title 18, United States Code,  
24                         for which a period of not more than 10 years  
25                         has elapsed since the date of the conviction or

1 the release of the person from imprisonment,  
 2 whichever is later, or is a serious violent felony  
 3 as defined in section 3559(c)(2)(F) of title 18,  
 4 United States Code,” after “that the person  
 5 committed”; and

6 (B) by inserting “or” before “the Mari-  
 7 time”; and

8 (2) in paragraph (g), by amending paragraph  
 9 (1) to read as follows:

10 “(1) the nature and circumstances of the of-  
 11 fense charged, including whether the offense is a  
 12 crime of violence, an offense involves a drug, fire-  
 13 arm, explosive, or destructive devise;”.

14 **SEC. 203. VENUE IN CAPITAL CASES.**

15 Section 3235 of title 18, United States Code, is  
 16 amended to read as follows:

17 **“§ 3235. Venue in capital cases**

18 “(a) The trial for any offense punishable by death  
 19 shall be held in the district where the offense was com-  
 20 mitted or in any district in which the offense began, con-  
 21 tinued, or was completed.

22 “(b) If the offense, or related conduct, under sub-  
 23 section (a) involves activities which affect interstate or for-  
 24 eign commerce, or the importation of an object or person

1 into the United States, such offense may be prosecuted  
 2 in any district in which those activities occurred.”.

3 **SEC. 204. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

4 (a) IN GENERAL.—Chapter 214 of title 18, United  
 5 States Code, is amended by adding at the end the fol-  
 6 lowing:

7 **“§ 3296. Violent crime offenses**

8 “No person shall be prosecuted, tried, or punished  
 9 for any noncapital felony, crime of violence (as defined in  
 10 section 16), including any racketeering activity or gang  
 11 crime which involves any violent crime, unless the indict-  
 12 ment is found or the information is instituted not later  
 13 than—

14 “(1) 10 years after the date on which the al-  
 15 leged violation occurred;

16 “(2) 10 years after the date on which the con-  
 17 tinuing offense was completed; or

18 “(3) 8 years after the date on which the alleged  
 19 violation was first discovered.”.

20 (b) CLERICAL AMENDMENT.—The table of sections  
 21 at the beginning of chapter 214 of title 18, United States  
 22 Code, is amended by adding at the end the following:

“3296. Violent crime offenses.”.

1 **SEC. 205. PREDICATE CRIMES FOR AUTHORIZATION OF**  
 2 **INTERCEPTION OF WIRE, ORAL, AND ELEC-**  
 3 **TRONIC COMMUNICATIONS.**

4 Section 2516(1) of title 18, United States Code, is  
 5 amended—

6 (1) in paragraph (q), by striking “or.”;

7 (2) by redesignating paragraph (r) as para-  
 8 graph (u); and

9 (3) by inserting after paragraph (q) the fol-  
 10 lowing:

11 “(r) any violation of section 424 of the Con-  
 12 trolled Substances Act (relating to murder and other  
 13 violent crimes in furtherance of a drug trafficking  
 14 crime);

15 “(s) any violation of 1123 of title 18, United  
 16 States Code (relating to interstate murder);

17 “(t) any violation of section 521, 522, or 523  
 18 (relating to criminal street gangs); or”.

19 **SEC. 206. CLARIFICATION OF DEFINITION OF CRIME OF VI-**  
 20 **OLENCE.**

21 Section 16(b) of title 18, United States Code, is  
 22 amended to read as follows:

23 “(b) any other offense that is a felony and that, by  
 24 its nature, involves a substantial risk of physical force or  
 25 injury against the person or property of another.”.

1 **SEC. 207. CLARIFICATION TO HEARSAY EXCEPTION FOR**  
2 **FORFEITURE BY WRONGDOING.**

3 Rule 804(b)(6) of the Federal Rules of Evidence is  
4 amended to read as follows:

5 “(6) FORFEITURE BY WRONGDOING. A state-  
6 ment offered against a party that has engaged or ac-  
7 quiesced in wrongdoing or such wrongdoing was rea-  
8 sonably foreseeable as part of a conspiracy of which  
9 the party was a member, that was intended to, and  
10 did, procured the unavailability of the declarant as  
11 a witness.”.

12 **SEC. 208. CLARIFICATION OF VENUE FOR RETALIATION**  
13 **AGAINST A WITNESS.**

14 Section 1513 of title 18, United States Code, is  
15 amended by—

16 (1) redesignating subsection (e) beginning with  
17 “Who conspires” as subsection (f); and

18 (2) adding at the end the following:

19 “(g) A prosecution under this section may be brought  
20 in the district in which the official proceeding (whether  
21 or not pending, about to be instituted or was completed)  
22 was intended to be affected or was completed, or in which  
23 the conduct constituting the alleged offense occurred.”.

1 **SEC. 209. AMENDMENT OF SENTENCING GUIDELINES RE-**  
2 **LATING TO CERTAIN GANG AND VIOLENT**  
3 **CRIMES.**

4 (a) **DIRECTIVE TO THE UNITED STATES SEN-**  
5 **TENCING COMMISSION.**—Pursuant to its authority under  
6 section 994(p) of title 28, United States Code, and in ac-  
7 cordance with this section, the United States Sentencing  
8 Commission shall review and, if appropriate, amend its  
9 guidelines and its policy statements to conform to the pro-  
10 visions of this title.

11 (b) **REQUIREMENTS.**—In carrying out this section,  
12 the Sentencing Commission shall—

13 (1) establish new guidelines and policy state-  
14 ments, as warranted, in order to implement new or  
15 revised criminal offenses created under this title;

16 (2) ensure that the sentencing guidelines and  
17 policy statements reflect the serious nature of the of-  
18 fenses and the penalties set forth in this title, the  
19 growing incidence of serious gang and violent  
20 crimes, and the need to modify the sentencing guide-  
21 lines and policy statements to deter, prevent, and  
22 punish such offenses;

23 (3) consider the extent to which the guidelines  
24 and policy statements adequately address—

1           (A) whether the guideline offense levels  
2           and enhancements for gang and violent  
3           crimes—

4                   (i) are sufficient to deter and punish  
5           such offenses; and

6                   (ii) are adequate in view of the statu-  
7           tory increases in penalties contained in the  
8           Act; and

9           (B) whether any existing or new specific  
10          offense characteristics should be added to re-  
11          flect congressional intent to increase gang and  
12          violent crime penalties, punish offenders, and  
13          deter gang and violent crime;

14          (4) assure reasonable consistency with other  
15          relevant directives and with other sentencing guide-  
16          lines;

17          (5) account for any additional aggravating or  
18          mitigating circumstances that might justify excep-  
19          tions to the generally applicable sentencing ranges;

20          (6) make any necessary conforming changes to  
21          the sentencing guidelines; and

22          (7) assure that the guidelines adequately meet  
23          the purposes of sentencing under section 3553(a)(2)  
24          of title 18, United States Code.



1 **SEC. 210. INCREASED PENALTIES FOR CRIMINAL USE OF**  
2 **FIREARMS IN CRIMES OF VIOLENCE AND**  
3 **DRUG TRAFFICKING.**

4 (a) IN GENERAL.—Section 924(c)(1)(A) of title 18,  
5 United States Code, is amended—

6 (1) by striking “shall” and inserting “or con-  
7 spires to commit any of the above acts, shall, for  
8 each instance in which the firearm is used, carried,  
9 or possessed,”;

10 (2) in clause (i), by striking “5 years” and in-  
11 serting “7 years”;

12 (3) by striking clause (ii);

13 (4) by striking clause (iii) and inserting the fol-  
14 lowing:

15 “(ii) if the firearm is discharged, be sentenced  
16 to a term of imprisonment of not less than 15  
17 years”; and

18 (5) by inserting at the end the following:

19 “(iii) if the firearm is used to wound, injure, or  
20 maim another person, be sentenced to a term of im-  
21 prisonment of not less than 20 years; and

22 “(iv) if the death of a person results from the  
23 use of the firearm, be punished by death or life im-  
24 prisonment.”.

1 (b) CONFORMING AMENDMENT.—Section 924 of title  
 2 18, United States Code, is amended by striking subsection  
 3 (o).

4 **SEC. 211. CONFORMING AMENDMENT.**

5 The matter before paragraph (1) in section 922(d)  
 6 of title 18, United States Code, is amended by inserting  
 7 “, transfer,” after “sell”.

8 **TITLE III—JUVENILE CRIME RE-**  
 9 **FORM FOR VIOLENT OFFEND-**  
 10 **ERS**

11 **SEC. 301. TREATMENT OF FEDERAL JUVENILE OFFENDERS.**

12 (a) IN GENERAL.—Section 5032 of title 18, United  
 13 States Code, is amended to read as follows:

14 **“§ 5032. Delinquency proceedings in district courts;**  
 15 **juveniles tried as adults; transfer for**  
 16 **criminal prosecution**

17 **“(a) DELINQUENCY PROCEEDINGS IN DISTRICT**  
 18 **COURTS.—**

19 **“(1) IN GENERAL.—**A juvenile alleged to have  
 20 committed an act of juvenile delinquency, other than  
 21 a violation of law committed within the special mari-  
 22 time and territorial jurisdiction of the United States  
 23 for which the maximum authorized term of impris-  
 24 onment does not exceed 6 months, shall not be pro-  
 25 ceeded against in any court of the United States un-

1 less the Attorney General, after investigation, cer-  
2 tifies to the appropriate district court of the United  
3 States that—

4 “(A) the juvenile court or other appro-  
5 priate court of a State does not have jurisdic-  
6 tion or refuses to assume jurisdiction over that  
7 juvenile with respect to such alleged act of juve-  
8 nile delinquency;

9 “(B) the State does not have available pro-  
10 grams and services adequate for the needs of  
11 juveniles; or

12 “(C) there is a substantial Federal interest  
13 in the case or the offense to warrant the exer-  
14 cise of Federal jurisdiction.

15 “(2) FAILURE TO CERTIFY.—If the Attorney  
16 General does not certify under paragraph (1), the  
17 juvenile shall be surrendered to the appropriate legal  
18 authorities of such State.

19 “(3) FEDERAL PROCEEDINGS.—If an alleged  
20 juvenile delinquent is not surrendered to the authori-  
21 ties of a State pursuant to this section, any pro-  
22 ceedings against him shall be in an appropriate dis-  
23 trict court of the United States. For such purposes,  
24 the court may be convened at any time and place  
25 within the district, in chambers or otherwise. The

1 Attorney General shall proceed by information or as  
2 authorized under section 3401(g) of this title, and  
3 no criminal prosecution shall be instituted for the al-  
4 leged act of juvenile delinquency except as provided  
5 below.

6 “(b) TRANSFER FOR FEDERAL CRIMINAL PROSECU-  
7 TION.—

8 “(1) IN GENERAL.—A juvenile who is alleged to  
9 have committed an act of juvenile delinquency and  
10 who is not surrendered to State authorities shall be  
11 proceeded against under this chapter unless—

12 “(A) the juvenile has requested in writing  
13 upon advice of counsel to be proceeded against  
14 as an adult;

15 “(B) with respect to a juvenile 15 years  
16 and older alleged to have committed an act  
17 after his fifteenth birthday which if committed  
18 by an adult would be a felony that is a crime  
19 of violence or an offense described in section  
20 401 of the Controlled Substances Act (21  
21 U.S.C. 841), or section 1002(a), 1005, or 1009  
22 of the Controlled Substances Import and Ex-  
23 port Act (21 U.S.C. 952(a), 955, 959), or sec-  
24 tion 922(x) of this title, or in section 924 (b),  
25 (g), or (h) of this title, the Attorney General

1 makes a motion to transfer the criminal pros-  
2 ecution on the basis of the alleged act in the  
3 appropriate district court of the United States  
4 and the court finds, after hearing, such transfer  
5 would be in the interest of justice as provided  
6 in paragraph (2); or

7 “(C) with respect to a juvenile 13 years  
8 and older alleged to have committed an act  
9 after his thirteenth birthday which if committed  
10 by an adult would be a felony that is the crime  
11 of violence under section 113 (a), (b), (c), 1111,  
12 1113, or, if the juvenile possessed a firearm  
13 during the offense, an offense under section  
14 2111, 2113, 2241(a), or 2241(c), the Attorney  
15 General makes a motion to transfer the crimi-  
16 nal prosecution on the basis of the alleged act  
17 in the appropriate district court of the United  
18 States and the court finds, after hearing, such  
19 transfer would be in the interest of justice as  
20 provided in paragraph (2).

21 Notwithstanding sections 1152 and 1153, no person  
22 subject to the criminal jurisdiction of an Indian trib-  
23 al government shall be subject to subparagraph (C)  
24 for any offense the Federal jurisdiction for which is  
25 predicated solely on Indian country (as defined in

1 section 1151), and which has occurred within the  
2 boundaries of such Indian country, unless the gov-  
3 erning body of the tribe has elected that the pre-  
4 ceding sentence have effect over land and persons  
5 subject to its criminal jurisdiction.

6 “(2) FACTORS.—

7 “(A) IN GENERAL.—Evidence of the fol-  
8 lowing factors shall be considered, and findings  
9 with regard to each factor shall be made in the  
10 record, in assessing whether a transfer under  
11 subparagraph (B) or (C) of paragraph (1)  
12 would be in the interest of justice:

13 “(i) The age and social background of  
14 the juvenile.

15 “(ii) The nature of the alleged of-  
16 fense.

17 “(iii) The extent and nature of the ju-  
18 venile’s prior delinquency record.

19 “(iv) The juvenile’s present intellec-  
20 tual development and psychological matu-  
21 rity. The nature of past treatment efforts  
22 and the juvenile’s response to such efforts.

23 “(v) The availability of programs de-  
24 signed to treat the juvenile’s behavioral  
25 problems.

1           “(B) NATURE OF THE OFFENSE.—In con-  
 2           sidering the nature of the offense, as required  
 3           by this paragraph, the court shall consider the  
 4           extent to which the juvenile played a leadership  
 5           role in an organization, or otherwise influenced  
 6           other persons to take part in criminal activities,  
 7           involving the use or distribution of controlled  
 8           substances or firearms. Such a factor, if found  
 9           to exist, shall weigh in favor of a transfer to  
 10          adult status, but the absence of this factor shall  
 11          not preclude such a transfer.

12          “(C) NOTICE.—Reasonable notice of the  
 13          transfer hearing under subparagraph (B) or (C)  
 14          of paragraph (1) shall be given to the juvenile,  
 15          the juvenile’s parents, guardian, or custodian  
 16          and to the juvenile’s counsel. The juvenile shall  
 17          be assisted by counsel during the transfer hear-  
 18          ing, and at every other critical stage of the pro-  
 19          ceedings.

20          “(c) MANDATORY TRANSFER OF JUVENILE 16 OR  
 21          OLDER.—A juvenile who is alleged to have committed an  
 22          act on or after his sixteenth birthday which if committed  
 23          by an adult would be a felony offense that has an element  
 24          thereof the use, attempted use, or threatened use of phys-  
 25          ical force against the person of another, or that, by its

1 very nature, involves a substantial risk that physical force  
 2 against the person of another, or would be an offense de-  
 3 scribed in section 32, 81, 844(d), (e), (f), (h), (i), or 2275  
 4 of this title, subsection (b)(1) (a), (b), or (c), (d) or (e)  
 5 of section 401 of the Controlled Substances Act, or section  
 6 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the  
 7 Controlled Substances Import and Export Act (21 U.S.C.  
 8 952(a), 953, 959, 960(b) (1), (2), (3)), and who has pre-  
 9 viously been found guilty of an act which if committed by  
 10 an adult would have been one of the offenses set forth  
 11 in this paragraph or an offense in violation of a State fel-  
 12 ony statute that would have been such an offense if a cir-  
 13 cumstance giving rise to Federal jurisdiction had existed,  
 14 shall be transferred to the appropriate district court of  
 15 the United States for criminal prosecution.

16 “(d) FILING BY UNITED STATES ATTORNEY  
 17 AGAINST JUVENILES CHARGED AS ADULTS.—

18 “(1) IN GENERAL.—The United States attorney  
 19 may charge as an adult a juvenile alleged to have  
 20 committed an act on or after the day the juvenile at-  
 21 tains the age of 16 years which if committed by an  
 22 adult would be a serious violent felony as described  
 23 in section 3559 (c)(2) and (c)(3).

24 “(2) OTHER OFFENSES.—In a prosecution  
 25 under this subsection the juvenile may be prosecuted



1 and convicted as an adult for any other offense  
 2 which is properly joined under the Federal Rules of  
 3 Criminal Procedure, and may also be convicted as an  
 4 adult of a lesser included offense.

5 “(3) REVIEWABILITY.—A determination to ap-  
 6 prove or not to approve, or to institute or not to in-  
 7 stitute, a prosecution under this subsection shall not  
 8 be reviewable in any court.

9 “(e) PROCEEDINGS.—

10 “(1) SUBSEQUENT PROCEEDING BARRED.—  
 11 Once a juvenile has entered a plea of guilty or the  
 12 proceeding has reached the stage that evidence has  
 13 begun to be taken with respect to a crime or an al-  
 14 leged act of juvenile delinquency subsequent criminal  
 15 prosecution or juvenile proceedings based upon such  
 16 alleged act of delinquency shall be barred.

17 “(2) STATEMENTS.—Statements made by a ju-  
 18 venile prior to or during a transfer hearing under  
 19 this section shall not be admissible at subsequent  
 20 criminal prosecutions except for impeachment pur-  
 21 poses or in a prosecution for perjury or making a  
 22 false statement.

23 “(3) FURTHER PROCEEDINGS.—Whenever a ju-  
 24 venile transferred to district court under subsection  
 25 (b) or (c) is not convicted of the crime upon which

1 the transfer was based on another crime which would  
2 have warranted transfer had the juvenile been ini-  
3 tially charged with that crime, further proceedings  
4 concerning the juvenile shall be conducted pursuant  
5 to the provisions of this chapter.

6 “(4) RECEIPT OF RECORDS.—A juvenile shall  
7 not be transferred to adult prosecution under sub-  
8 section (b) nor shall a hearing be held under section  
9 5037 (disposition after a finding of juvenile delin-  
10 quency) until any prior juvenile court records of  
11 such juvenile have been received by the court, or the  
12 clerk of the juvenile court has certified in writing  
13 that the juvenile has no prior record, or that the ju-  
14 venile’s record is unavailable and why it is unavail-  
15 able.

16 “(5) SPECIFIC ACTS DESCRIBED.—Whenever a  
17 juvenile is adjudged delinquent pursuant to the pro-  
18 visions of this chapter, the specific acts which the ju-  
19 venile has been found to have committed shall be de-  
20 scribed as part of the official record of the pro-  
21 ceedings and part of the juvenile’s official record.

22 “(f) STATE.—For purposes of this section, the term  
23 ‘State’ includes a State of the United States, the District  
24 of Columbia, and any commonwealth, territory, or posses-  
25 sion of the United States.”.

1 (b) CONFORMING AMENDMENTS.—The analysis for  
 2 chapter 403 of title 18, United States Code, is amended  
 3 by striking the item relating to section 5032 and inserting  
 4 the following:

“5032. Delinquency proceedings in district courts; juveniles tried as adults;  
 transfer for criminal prosecution.”.

5 **SEC. 302. NOTIFICATION AFTER ARREST.**

6 Section 5033 of title 18, United States Code, is  
 7 amended in the first sentence, by striking “immediately  
 8 notify the Attorney General and” and inserting “imme-  
 9 diately, or as soon as practicable thereafter, notify the  
 10 United States attorney of the appropriate jurisdiction and  
 11 shall promptly take reasonable steps to notify”.

12 **SEC. 303. RELEASE AND DETENTION PRIOR TO DISPOSI-**  
 13 **TION.**

14 (a) DUTIES OF MAGISTRATE.—Section 5034 of title  
 15 18, United States Code, is amended—

16 (1) in the first undesignated paragraph, by  
 17 striking “The magistrate shall insure” and inserting  
 18 the following:

19 “(a) IN GENERAL.—

20 “(1) REPRESENTATION BY COUNSEL.—The  
 21 magistrate shall ensure”;

22 (2) in the second undesignated paragraph, by  
 23 striking “The magistrate may appoint” and insert-  
 24 ing the following:

1           “(2) GUARDIAN AD LITEM.—The magistrate  
2       may appoint”;

3           (3) in the third undesignated paragraph, by  
4       striking “If the juvenile” and inserting the following:

5       “(b) RELEASE PRIOR TO DISPOSITION.—Except as  
6       provided in subsection (c), if the juvenile”; and

7           (4) by adding at the end the following:

8       “(c) RELEASE OF CERTAIN JUVENILES.—

9           “(1) IN GENERAL.—A juvenile, who is to be  
10       tried as an adult under section 5032, shall be re-  
11       leased pending trial in accordance with the applica-  
12       ble provisions of chapter 207.

13           “(2) CONDITIONS.—A release under paragraph  
14       (1) shall be conducted in the same manner, and  
15       shall be subject to the same terms, conditions, and  
16       sanctions for violation of a release condition, as pro-  
17       vided for an adult under chapter 207.

18       “(d) PENALTY FOR AN OFFENSE COMMITTED WHILE  
19       ON RELEASE.—

20           “(1) IN GENERAL.—A juvenile alleged to have  
21       committed, while on release under this section, an  
22       offense that, if committed by an adult, would be a  
23       Federal criminal offense, shall be subject to prosecu-  
24       tion under section 5032.

1 “(2) APPLICABILITY OF CERTAIN PENALTIES.—

2 Section 3147 shall apply to a juvenile who is to be  
3 tried as an adult under section 5032 for an offense  
4 committed while on release under this section.”.

5 (b) DETENTION PRIOR TO DISPOSITION.—Section  
6 5035 of title 18, United States Code, is amended—

7 (1) by striking “A juvenile” and inserting the  
8 following:

9 “(a) IN GENERAL.—Except as provided in subsection  
10 (b), a juvenile”; and

11 (2) by adding at the end the following:

12 “(b) DETENTION OF CERTAIN JUVENILES.—A juve-  
13 nile who is to be tried as an adult under section 5032  
14 shall be subject to detention in accordance with chapter  
15 207.”.

16 **SEC. 304. SPEEDY TRIAL.**

17 Section 5036 of title 18, United States Code, is  
18 amended to read as follows:

19 **“§ 5036. Speedy trial**

20 “(a) IN GENERAL.—If an alleged delinquent, who is  
21 to be proceeded against as a juvenile pursuant to section  
22 5032 and who is in detention pending trial, is not brought  
23 to trial within 70 days from the date upon which such  
24 detention began, the information shall be dismissed on mo-

tion of the alleged delinquent or at the direction of the court.

“(b) PERIODS OF EXCLUSION.—The periods of exclusion under section 3161(h) shall apply to this section.

“(c) JUDICIAL CONSIDERATIONS.—In determining whether an information should be dismissed with or without prejudice, the court shall consider—

“(1) the seriousness of the alleged act of juvenile delinquency;

“(2) the facts and circumstances of the case that led to the dismissal; and

“(3) the impact of a reprosecution on the administration of justice.”.

#### **SEC. 305. USE OF JUVENILE RECORDS.**

Section 5038 of title 18, United States Code, is amended by adding at the end the following:

“(g) In any case in which a juvenile is tried as an adult in Federal court, the Federal criminal record of the juvenile shall be made available in the same manner as is applicable to the Federal criminal records of adult defendants.”.

#### **SEC. 306. FEDERAL SENTENCING GUIDELINES.**

(a) APPLICATION OF GUIDELINES TO CERTAIN JUVENILE DEFENDANTS.—Section 994(h) of title 28, United States Code, is amended by inserting “, or in which the

1 defendant is a juvenile who is tried as an adult,” after  
2 “old or older”.

3 (b) GUIDELINES FOR JUVENILE CASES.—Section  
4 994 of title 28, United States Code, is amended by adding  
5 at the end the following:

6 “(z) GUIDELINES FOR JUVENILE CASES.—Not later  
7 than 1 year after the date of enactment of the Act, the  
8 Commission, pursuant to its rules and regulations and  
9 consistent with all pertinent provisions of any Federal  
10 statute, shall promulgate and distribute, to all courts of  
11 the United States and to the United States Probation Sys-  
12 tem, guidelines, as described in this section, for use by  
13 a sentencing court in determining the sentence to be im-  
14 posed in a criminal case if the defendant committed the  
15 offense as a juvenile, and is tried as an adult pursuant  
16 to section 5032 of title 18.”.

○